IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
APPEAL NO.202 OF 2007
IN
WRIT PETITION NO.2563 OF 2005

Pradeep Gopal Dayme .... Appellant
Vs.
Brihanmumbai Municipal
Corporation .... Respondent

Shri Y.K. Sharma, Advocate i/b M/s. Ganesh & Co. for the Appellant.

Sarvasri S.K. Talsania, Senior Advocate with J.S. Saluja, Advocate i/b M/s. M.V. Kini & Co. for the Respondent.

CORAM: R.M.S. KHANDEPARKAR &
D.G. KARNIK, JJ.

DATED: APRIL 19, 2007

P.C:

Heard. This appeal arises from the judgment dated 19-1-2007 passed by the learned single Judge in Writ Petition No.2563 of 2005 whereby the learned single Judge has allowed the said writ petition and has quashed and set aside the orders of the Labour Court and the Industrial Court to the extent the respondent was directed to reinstate the appellant with continuity of service but without back wages. The learned single Judge has on consideration of the materials on record found that the fact finding Courts had concurrently held that the misconduct on the part of the appellant was clearly proved in relation to the charges of causing

death by rash and negligent driving by the appellant while on duty. The learned single Judge has also found that the said finding was arrived at by the fact finding Courts on detail analysis of the materials on record and indeed plain reading of the judgments of the Labour Court as well as the Industrial Court discloses that no fault can be found with the said finding. Once the misconduct of the nature in question was established, there was no occasion and justification for the Labour Court or the Industrial Court to interfere in the discretion of the management in the matter of punishment imposed upon the appellant. Considering the same, the learned single Judge has set aside the orders of the Labour Court and the Industrial Court in relation to their interference in the order of punishment imposed by the respondent upon the appellant. In our considered opinion, the proved misconduct is of a grave and serious nature and clearly warranted the punishment of dismissal and, therefore, we do not find any illegality committed in setting aside the orders of the Labour Court and the Industrial Court in relation to the punishment which was imposed by the management and thereby restoring the said punishment by the impugned order. In the circumstances, we do not find any case being made out for interference in the impugned order in the appeal. The appeal, therefore, fails and is rejected.

(D.G.Karnik, J.) (R.M.S.Khandeparkar, J.)

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